

1 THOMAS E. FRANKOVICH (State Bar No. 074414)
2 THOMAS E. FRANKOVICH,
3 A Professional Law Corporation
4328 Redwood Hwy., Suite 300
3 San Rafael, CA 94903
4 Telephone: 415/674-8600
Facsimile: 415/674-9900

5 Attorneys for Plaintiffs
DAREN HEATHERLY and IRMA RAMIREZ
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 DAREN HEATHERLY and IRMA RAMIREZ,

13 Plaintiffs,

14 v.

15 MARISCO'S LA JAIBA; XU TRUONG and
16 AHN HOANG, TRUSTEES OF THE
TRUONG/HOANG FAMILY TRUST, U.D.T.
17 dated March 18, 1997; and MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA,

18 Defendants.

Case No.: CV 11-1069 MEJ

Unlimited Civil Matter

**SIXTH STIPULATION EXTENDING
TIME FOR DEFENDANT XU TRUONG
and ANH HOANG, TRUSTEES OF THE
TRUONG/HOANG FAMILY TRUST TO
RESPOND TO PLAINTIFFS'
COMPLAINT AND EXTENDING DATES
IN SCHEDULING ORDER; AND
[PROPOSED] ORDER THEREON**

20 Plaintiffs DARREN HEATHERLY AND IRMA RAMIREZ (hereinafter "Plaintiffs") and
21 Defendants MARISCO'S LA JAIBA (hereinafter "Marisco's"); XU TRUONG and ANH HOANG
(erroneously sued herein as AHN HOANG), TRUSTEES OF THE TRUONG/HOANG FAMILY
23 TRUST, U.D.T. dated March 18, 1997 (hereinafter "Defendant Truong"); and MIGUEL PELAYO
24 MONTIEL, an individual dba MARISCO'S LA JAIBA (hereinafter "Montiel"), by and through their
25 respective counsel, respectfully request to make the following stipulation:

26 1. WHEREAS, all Defendants have been served with the Summons and Complaint; and
27 2. WHEREAS, Defendants Marisco's and Montiel have filed an Answer to the
Complaint; and

1 3. WHEREAS, the Court has entered five prior Orders extending the dates in the
2 Scheduling Order based on Stipulations agreed to by the parties.

3 4. WHEREAS, the Court's most recent order of August 11, 2011 extended the date in the
4 Scheduling Order as follows:

5 Defendant Truong's response to the Complaint due September 12, 2011.

6 Parties to complete Initial Disclosures by September 12, 2011.

7 Parties to hold a joint inspection of the premises by September 19, 2011

8 Parties to meet and confer in person to discuss settlement by September 29, 2011.

9 Parties to file "Notice of Need for Mediation" by November 4, 2011.

10 5. WHEREAS, on July 5, 2011, Defendant Truong made a written settlement offer to
11 Plaintiffs.

12 6. WHEREAS, on July 20, 2011, Plaintiffs made a written counteroffer for settlement to
13 Defendant Truong.

14 7. WHEREAS, on July 26, 2011, Defendant Truong replied with another offer of
15 settlement.

16 8. WHEREAS, on August 29, 2011, Plaintiffs made a written counteroffer for settlement
17 to Defendant Truong.

18 9. WHEREAS, during the week of September 5, 2011, counsel for Defendant Truong
19 attempted to speak with Plaintiff's counsel to discuss settlement. Having been unable to speak
20 directly with Plaintiff's counsel, on September 12, 2011, counsel for Defendant Truong faxed to
21 Plaintiff's counsel a letter making a further settlement offer. Plaintiff's counsel was in mediation and
22 unable to respond.

23 10. WHEREAS, Defendant Truong and Plaintiffs continue to actively attempt to negotiate
24 a settlement in the above-referenced case, and wish to reduce fees, costs and litigation expenses in
25 doing so.

26 11. WHEREAS, the parties believe it would be in the interests of efficiency and economy
27 to extend the time for Defendant Truong to respond to Plaintiff's Complaint and to further extend for
28

1 14 days or until the next business day if the date falls on a Saturday, Sunday or Court holiday, the
2 dates in the August 11, 2011 Order.

3 IT IS STIPULATED that:

4 1. Defendant Truong will have up to and including September 26, 2011 to respond to the
5 Complaint;

6 2. The parties will complete initial disclosures by September 26, 2011;

7 3. The parties will hold a joint inspection of the premises by October 3, 2011;

8 4. The last day for the parties to meet and confer in person to discuss settlement is
9 October 13, 2011;

10 5. The last day for Plaintiffs to file "Notice of Need for Mediation" is November 18,
11 2011.

12 DATED: September 12, 2011

THOMAS E. FRANKOVICH,
A Professional Law Corporation
Attorneys for Plaintiffs
DAREN HEATHERLY and IRMA RAMIREZ

13 By: /s/ Thomas E. Frankovich
14 Thomas E. Frankovich

15 DATED: September 12, 2011

AARON & WILSON, LLP
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

16 By: /s/ Robert S. Aaron
17 Robert S. Aaron

18 DATED: September 12, 2011

HATCHER & RUNDEL
Attorneys for Defendants
MARISCO'S LA JAIBA; MIGUEL PELAYO
MONTIEL, an individual dba MARISCO'S LA
JAIBA

19 By: /s/ William W. Hatcher, Jr.
20 William W. Hatcher, Jr.

1 DATED: September 12, 2011
2

SPAULDING McCULLOUGH & TANSIL LLP
3 Attorneys for Defendants
4 XU TRUONG and ANH HOANG, Trustees of the
TRUONG/HOANG FAMILY TRUST, U.D.T. dated
March 18, 1997 (erroneously sued herein as AHN
HOANG)

5 By: /s/ Mary P. Derner
6 Mary P. Derner

7
ORDER
8

9 IT IS SO ORDERED that Defendant Truong will have up to and including September 26,
10 2011 to respond to the Complaint.

11 IT IS FURTHER ORDERED that the parties will complete initial disclosures by
12 September 26, 2011;

13 IT IS FURTHER ORDERED that the parties will hold a joint inspection of the premises by
14 October 3, 2011.

15 IT IS FURTHER ORDERED that the last day for the parties to meet and confer in person to
16 discuss settlement is October 13, 2011;

17 IT IS FURTHER ORDERED that the last day for Plaintiffs to file "Notice of Need for
18 Mediation" is November 18, 2011.

19
20 Dated: September 14, 2011

21
22
23
24
25
26
27
28
THE HONORABLE MARIA-ELENA JAMES
United States Magistrate Judge
